



भारत का राजपत्र The Gazette of India

असाधारण

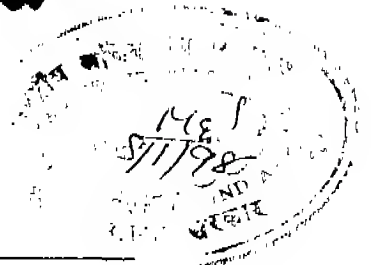
EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 28th July, 1997:—

BILL NO. XLIII OF 1997

A Bill to amend the Delhi Rent Act, 1995.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Delhi Rent (Amendment) Act, 1997.

Short title.

33 of 1995.

2. In section 3 of the Delhi Rent Act, 1995 (hereinafter referred to as the principal Act), in sub-section (I),—

Amendment of section 3.

(a) in clause (c), for the words "monthly deemed rent on the date of commencement of this Act", the words "monthly rent payable" shall be substituted;

(b) *Explanation III* shall be omitted;

(c) *Explanation IV* and *Explanation V* shall be renumbered as *Explanation III* and *Explanation IV* respectively.

3. For section 4 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 4.

4 of 1882.

"4. Notwithstanding anything contained in section 107 of the Transfer of Property Act, 1882, no person shall, after the commencement of this Act, let or take on rent any premises except by an agreement in writing."

Agreement to be in writing.

Amendment of
section 5.

4. In section 5 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) In relation to a tenant referred to in clause (i) of sub-section (3), the right of tenancy shall devolve for a period of three years from the date of his death to his successors in the following order, namely:—

(a) spouse;

(b) son or daughter, or, where there are both son and daughter, both of them;

(c) parents;

(d) daughter-in-law, being the widow of his pre-deceased son:

Provided that the tenancy shall devolve upon a successor only in a case where such successor was dependent on the tenant on the date of his death and such successor is not owning or occupying any other non-residential premises in the National Capital Territory of Delhi."

Amendment of
section 6.

5. In section 6 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The rent payable in relation to a premises shall be,—

(a) in the case of a tenancy entered into before the commencement of this Act,—

(i) where standard rent under section 7 has not been fixed, the rent agreed to between the landlord and the tenant as enhanced in the manner provided in Schedule I; or

(ii) the standard rent specified under section 7;

(b) in the case of a tenancy entered into after the commencement of this Act, the rent agreed to between the landlord and the tenant as enhanced as per agreement, failing which in the manner provided in Schedule I,

as revised under section 9."

Amendment of
section 11.

6. In section 11 of the principal Act, in sub-section (1),—

(a) clause (i) shall be omitted;

(b) clauses (ii) to (v) shall be renumbered as clauses (i) to (iv) respectively;

(c) in the proviso, after the word "landlord", the words "or the tenant" shall be inserted.

Substitution of
new section for
section 13

7. For section 13 of the principal Act, the following section shall be substituted, namely:—

Limitation for
application for
fixation of
standard rent,
etc.

"13. A landlord or a tenant may file an application within two years from the date on which the cause of action has arisen, to the Rent Authority,—

(a) in the case of any premises which was let before the commencement of this Act, for any lawful increase or decrease of rent including fixation of standard rent or for payment of other charges;

(b) in the case of any premises which was let after the commencement of this Act, for determining lawful increase or decrease of rent or other charges payable excluding fixing of standard rent:

Provided that the Rent Authority may entertain the application after the expiry of the said period of two years if he is satisfied that the applicant was prevented by sufficient cause from filing the application in time."

8. In section 22 of the principal Act, in sub-section (2),—

Amendment of
section 22.

(a) in clause (a), for the words "two or more", the words "three or more" shall be substituted;

(b) in clause (r), for *Explanation I*, the following shall be substituted, namely:—

"Provided also that for the purpose of this clause, section 23, section 24, section 25 or section 26 and notwithstanding anything contained in any other provision of this Act, where the landlord in his application supported by an affidavit submits that the premises are required by him for occupation for himself or for any member of his family dependent on him, the Rent Authority shall give an opportunity to the tenant to file his reply supported by an affidavit within fifteen days of the intimation in this regard to such tenant, shall pass orders on the basis of such affidavits only and shall endeavour to dispose of the matter within one month of intimation to such tenant.

Explanation I.—For the purposes of this clause, section 23, section 24, section 25 or section 26, premises let for a particular use may be required by the landlord for a different use if such use is permissible under law."

9. In section 45 of the principal Act, in sub-section (8), for clause (a), the following clause shall be substituted, namely:—

Amendment of
section 45.

"(a) Every application by a landlord for the recovery of possession of any premises on the ground specified in clause (e) or clause (f) of sub-section (2) of section 22 or under section 33 shall be dealt with in accordance with the procedure specified in this sub-section."

10. In section 48 of the principal Act,—

Amendment of
section 48.

(a) in sub-section (1),—

(i) in clause (b), for the words "Member; or", the word "Member." shall be substituted;

(ii) clause (c) and clause (d) shall be omitted.

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) A person shall not be qualified for appointment as a Member, unless he—

(a) is, or has been, qualified to be, a Judge of a High Court; or

(b) has been a Member of the Indian Legal Service and has held post in Grade I of that Service for at least three years.

(c) in sub-section (3), for the words, brackets and figures "Subject to the provisions of sub-sections (4) and (5), the", the word "The" shall be substituted;

(d) sub-section (4) and sub-section (5) shall be omitted.

11. In section 67 of the principal Act, for the opening words "On the commencement of this Act", the words "On the establishment of the Tribunal under section 46" shall be substituted.

Amendment of
section 67.

12. In section 71 of the principal Act, in sub-section (1), for the opening words "No court", the words and figures "On the establishment of the Tribunal under section 46, no court" shall be substituted.

Amendment of
section 71.

13. In section 81 of the principal Act, in sub-section (2), clauses (a) and (b) shall be omitted.

Amendment of
section 81.

Addition of
certain new
sections.

Saving of
operation of
certain
enactments.

Transitory
provisions.

14. Section 82 of the principal Act shall be renumbered as section 84 and before section 84 as so renumbered, the following sections shall be inserted, namely:—

"82. Nothing in this Act shall affect the provisions of the Administration of Evacuee Property Act, 1950, or the Slum Areas (Improvement and Clearance) Act, 1956.

31 of 1950.
96 of 1956.

83. Notwithstanding anything contained in this Act, for so long as a Rent Authority is not appointed under sub-section (1) of section 43 and the Delhi Rent Tribunal is not established under section 46,—

(a) the Controllers appointed under section 35 of the Delhi Rent Control Act, 1958 (hereinafter in this section referred to as the repealed Act), shall continue to hold office and shall exercise the powers conferred, and duties imposed, on a Rent Authority by or under this Act in the manner provided in Chapter VI of the repealed Act;

59 of 1958.

(b) the Rent Control Tribunal appointed under sub-section (1) of section 38 of the repealed Act shall continue to hold office and exercise the powers of appeal over the decisions of the Controllers referred to in clause (a) in the manner it had been exercising such powers under section 38 of the repealed Act;

(c) reference to—

(i) "Tribunal" in sub-section (6) of section 44,

(ii) "Chairman" in sub-section (3) of section 45,

(iii) "Chairman of the Tribunal" in clause (b) of sub-section (7) of section 45,

(iv) "Chairman of the Tribunal" in clause (d) of sub-section (7) of section 45,

shall be deemed to be reference to Rent Control Tribunal referred to in clause (b)."

Amendment of
Schedule I.

15. In Schedule I of the principal Act, for Table I, the following Table shall be substituted, namely:—

"TABLE—I

Date of agreement/commencement of construction	Rate of annual enhancement of rent
1. Up to 31st December, 1949	Two per cent
2. On and from the 1st January, 1950 to 31st December, 1960	Four per cent.
3. On and from the 1st January, 1961 to 31st December, 1970	Six per cent.
4. On and from the 1st January, 1971 to 31st December, 1995	(i) Eight per cent. for residential premises; (ii) Ten per cent. for non-residential premises.
5. On and from the 1st January, 1996 onwards	(i) Eight per cent. for residential premises. (ii) Twelve per cent. for non-residential premises."

16. In Schedule IV of the principal Act, for the portion beginning with the words, brackets and letters "For cases covered under clauses (e) and (f)" and ending with the words "and for other cases indicate thirty days.", the following shall be substitute, namely:—

Amendment
of Schedule
IV.

"For cases covered under clause (e) or clause (f) or clause (r) of sub-section (2) of section 22 or section 23, section 24, section 25, section 26 or section 33, indicate fifteen days and for other cases indicate thirty days."

STATEMENT OF OBJECTS AND REASONS

The Delhi Rent Bill, 1995 which received assent of the President on the 23rd August, 1995 was published as the Delhi Rent Act, 1995. However, in view of the strong reservations expressed by various individuals and organisations, the Act could not be brought into force so far. Though the Act was conceived as an attempt to promote private investment in rental housing by balancing the interests of the landlords and the tenants, yet it was felt that certain distortions are to be set at rest.

2. The issue regarding enforcement of the Act with or without amendments has been under examination of the Central Government at various levels for over a year. A view has emerged after various high level meetings that the Act may be brought into force after effecting certain amendments therein.

3. Having regard to the various representations and the developments referred to above, it has been decided to amend the Act, *inter alia*, seeking to provide for the following, namely:—

(a) provision regarding non-applicability of the Act under section 3(1)(c) will be in relation to monthly rent payable instead of in relation to monthly deemed rent;

(b) all tenancies which may be entered into after the commencement of the Delhi Rent Act, 1995 shall be in writing and registration thereof shall be governed by the provisions of the Registration Act, 1908;

(c) inheritability of tenancies in relation to non-residential premises where the successor of the deceased tenant was dependent on him and is also not owning or possessing any non-residential premises in the National Capital Territory of Delhi shall be for a period of three years;

(d) the tenant will be given an opportunity to file a counter-affidavit in reply to the affidavit filed by the house-owner for getting his premises vacated in relation to certain grounds of eviction;

(e) qualifications and mode of selection of the Chairman and the Members of the Delhi Rent Tribunal will be at par with those of the Central Administrative Tribunal (CAT);

(f) the adjudicating machinery set up under the Delhi Rent (Control) Act, 1958 will continue to deal with cases till the new machinery (*i.e.* Rent Authority and Delhi Rent Tribunal) is set up and becomes operational under the Delhi Rent Act, 1995; and

(g) the Act shall not affect the provisions of the Administration of Evacuee Property Act, 1950 or the Slum Areas (Improvement and Clearance) Act, 1956.

4. The proposed amendments are intended to make the Act more acceptable both to landlords and tenants. At the same time these would also encourage investment in the housing sector, particularly the rental housing.

5. The Bill seeks to achieve the above objects.

U. VENKATESWARLU

S.S. SOHONI,
Secretary-General.

